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COMMITTEE AGAINST TORTURE

Twenty-fourth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 423rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 9 May 2000, at 5.35 p.m.

Chairman: Mr. BURNS

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Third periodic report of China (continued)

* The summary record of the first part (closed) of the meeting appears as document CAT/C/SR.423.

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GE.00-42017 (E)

The public part of the meeting was called to order at 5.35 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 6) (continued)

Third periodic report of China (continued) (CAT/C/39/Add.2)

Conclusions and recommendations of the Committee (CAT/C/24/Concl.3)

1. At the invitation of the Chairman, the members of the delegation of China resumed their places at the Committee table.

2. The CHAIRMAN invited the Country Rapporteur to read out the conclusions and recommendations adopted by the Committee concerning the third periodic report of China.

3. Mr. MAVROMMATIS (Country Rapporteur) read out the following text:

"1. The Committee considered the third periodic report of China (CAT/C/39/Add.2) at its 414th, 417th and 421st meetings on 4, 5 and 9 May 2000 (CAT/C/SR.414, 417 and 421), and adopted the following conclusions and recommendations:

I. Introduction

2. The third periodic report of China consists of two parts. Part I covers the whole of China, with the exception of the Hong Kong Special Administrative Region, and Part II covers the Hong Kong Special Administrative Region only.

3. The Committee welcomes the third periodic report of China, which conforms with the general guidelines for the preparation of State party reports. The Committee expresses its appreciation for the additional information and replies provided by the State party and the continued and constructive co-operation of China with the Committee.

PART I - CHINA, EXCLUDING THE HONG KONG SPECIAL ADMINISTRATIVE REGION

II. Positive aspects

4. The Committee appreciates and encourages the continuing efforts of the Chinese Government to introduce such amendments in its legislation and practices as would bring them into line with international norms of human rights and to entrench legality constitutionally.

5. The Committee welcomes action taken by the Chinese Government to implement a number of the previous recommendations made by the Committee, in particular, with regard to timely access to defence counsel, the presumption of innocence, amendments to the Criminal Law and Procedure pertaining to fair trials and the introduction of more severe punishment for acts of torture.

6. The Committee notes the effective abolition of the procedure of shelter for investigation and protection and the introduction of certain aspects of fair trial in respect of other proceedings of administrative detention, including reeducation through labour.

7. The Committee notes the State party's expressed willingness to cooperate internationally to provide rehabilitation for victims of torture.

8. The Committee welcomes the assurances of the State party that the Convention is binding on China's law enforcement and judicial organs.

9. The Committee expresses its appreciation for the communication of the State party to the Secretary-General of the United Nations, dated 19 October 1999, whereby it extended the application of the Convention to the Macau Special Administrative Region.

III. Factors and difficulties impeding the application of the provisions of the Convention

10. There are no new factors and difficulties impeding the application of the Convention apart from those referred to in the Committee's conclusions following the examination of the second periodic report of China.

IV. Subjects of concern

11. The Committee is concerned about the continuing allegations of serious incidents of torture, especially involving Tibetans and other national minorities.

12. The Committee notes with concern the absence of detailed information and statistics regarding torture and other forms of cruel, inhuman or degrading treatment or punishment, disaggregated by gender.

13. The Committee is concerned about the fact that reforms are not implemented uniformly and equally in all parts of China.

14. Concern is expressed about the fact that rules and practices of certain procurators limit the prosecution of torture suspects to certain serious cases.

15. The Committee is concerned about the system of administrative sanctions that permits extrajudicial custodial orders in respect of individuals that have not committed, or are not charged with, a violation of the law.

16. The absence of a uniform and effective investigation mechanism to examine allegations of torture is noted with concern.

17. The Committee expresses concern about reports of coercive and violent measures resorted to by some local officials, in implementing the population policy of the State party, contrary to the relevant provisions of the Convention.

V. Recommendations

18. The Committee recommends to the State party to incorporate a definition of torture into its domestic law that fully complies with the definition contained in the Convention.

19. The State party is invited to consider, in respect of both its mainland part and the Hong Kong Special Administrative Region, declaring in favour of articles 21 and 22 of the Convention and withdrawing its reservation under article 20, and to ensure the continued applicability of article 20 in the Hong Kong Special Administrative Region.

20. The Committee recommends that the State party continue the process of reform, monitor the uniform and effective implementation of new laws and practices and take other measures as appropriate to this end.

21. The Committee recommends that the State party consider abolishing the need to apply for permission, for any reason, before a suspect can have access to a lawyer whilst in custody.

22. The Committee recommends that the State party consider abolishing, in accordance with relevant international standards, all forms of administrative detention.

23. The Committee recommends that the State party ensure the prompt, thorough, effective and impartial investigation of all allegations of torture.

24. The Committee encourages the State party to continue and intensify its efforts to provide training courses on international human rights standards for law enforcement officers.

25. The Committee recommends that the State party provide, in its next periodic report, answers to questions that it did not find possible to address during the present consideration and to include detailed statistics, disaggregated, inter alia, by region and gender.

PART II - HONG KONG SPECIAL ADMINISTRATIVE REGION

VI. Factors and difficulties impeding the application of the provisions of the Convention

26. The Committee notes that the reintegration of the Hong Kong Special Administrative Region into China created no factors and difficulties impeding the application of the Convention.

VII. Positive aspects

27. The Committee expresses its appreciation to the Government of China for the steps taken to ensure the continued application of the Convention in the Hong Kong Special Administrative Region, the authorities of which have prepared parts of the report.

28. The Committee welcomes the release of all Vietnamese refugees and migrants and the closure of the Pillar Point detention centre.

29. The Committee welcomes the adoption of legislation to facilitate the extradition of persons suspected of having committed acts of torture.

30. The Committee notes as positive the strengthening of the independence of the Independent Police Complaints Council.

31. The Committee welcomes the increase of the maximum sentence for certain sexual crimes such as incest and the abolition of the requirement of corroboration in respect of sexual offences.

32. The Committee welcomes the introduction of training courses and other educational measures targeting law enforcement personnel, and the fact that interviews of detainees are videotaped.

VIII. Subjects of concern

33. The Committee is concerned that the reference to 'lawful authority, justification or excuse' as a defence for a person charged with torture, as well as the definition of a public official in the Crimes (Torture) Ordinance, Chapter 427, are not in full conformity with article 1 of the Convention.

34. The Committee is concerned about the fact that there are as yet no prosecutions under the Crimes (Torture) Ordinance, despite circumstances brought to the attention of the Committee justifying such prosecutions.

35. Concern is expressed that not all instances of torture and other cruel, inhuman or degrading treatment or punishment are covered by the Crimes (Torture) Ordinance.

36. It is noted with concern that the practices in the Hong Kong Special Administrative Region relating to refugees may not be in full conformity with article 3 of the Convention.

IX. Recommendations

37. The Committee recommends that the necessary steps be taken to ensure that torture, as defined in article 1 of the Convention, is effectively prosecuted and

appropriately sanctioned and that efforts be made to prevent other acts of cruel, inhuman or degrading treatment or punishment, in accordance with the provisions of the Convention.

38. The Committee recommends that continued efforts be made to ensure that the Independent Police Complaints Council becomes a statutory body, with increased competence.

39. The Committee recommends the continuation and intensification of preventive measures, including training for law enforcement officials.

40. The Committee recommends that laws and practices relating to refugees be brought into full conformity with article 3 of the Convention."

4. Mr. QIAO Zonghuai (China) thanked the Committee for its hard work. In its consideration of China's third periodic report, the Committee had made many pertinent comments and useful recommendations, which would be transmitted to the Chinese Government for serious consideration. It had been proved that a dialogue conducted in an impartial, objective and constructive atmosphere led to mutual understanding and the more effective discharge of the Committee's mandate. Some of the Committee's conclusions were, however, based on allegations made by non-governmental organizations (NGOs). Those allegations were groundless and had been clarified by China in the course of its deliberations with the Committee. The Committee had stated its intention to make an independent and objective judgement on the accusations made, and the surest way to achieve that was to visit China itself and meet law-enforcement officers and legal scholars. The many changes taking place in China would certainly create a positive impression.

The meeting rose at 5.50 p.m.